

108TH CONGRESS
2D SESSION

S. 2211

To amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2004

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Abandoned Mine Land
5 Reclamation Reform Act of 2004”.

6 **SEC. 2. AMENDMENTS TO SURFACE MINING ACT.**

7 (a) AMENDMENTS TO SECTION 401.—(1) Section
8 401 of the Surface Mining Control and Reclamation Act
9 of 1977 (30 U.S.C. 1231) is amended as follows:

1 (A) In subsection (c) by striking paragraphs (2)
 2 and (6) and redesignating paragraphs (3) through
 3 (13) in order as paragraphs (2) through (11).

4 (B) In subsection (e)—

5 (i) in the second sentence, by striking “the
 6 needs of such fund” and inserting “achieving
 7 the purposes of the transfers under section
 8 402(h)”; and

9 (ii) in the third sentence, by inserting be-
 10 fore the period the following: “for the purpose
 11 of the transfers under section 402(h)”.

12 (2) Section 712(b) of the Surface Mining Control and
 13 Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended
 14 by striking “section 401(c)(11)” and inserting “section
 15 401(c)(9)”.

16 (b) AMENDMENTS TO SECTION 402.—Section 402 of
 17 the Surface Mining Control and Reclamation Act of 1977
 18 (30 U.S.C. 1232) is amended as follows:

19 (1) In subsection (a)—

20 (A) by striking “35” and inserting “28”;

21 (B) by striking “15” and inserting “12”;

22 and

23 (C) by striking “10 cents” and inserting
 24 “8 cents”.

1 (2) In subsection (b) by striking “2004” and all
 2 that follows through the end of the sentence and in-
 3 serting “2019.”.

4 (3) In subsection (g)(1)(D) by striking “in any
 5 area under paragraph (2), (3), (4), or (5)” and in-
 6 serting “under paragraph (5)”.

7 (4) Subsection (g)(2) is amended to read as fol-
 8 lows:

9 “(2) In making the grants referred to in paragraph
 10 (1)(C) and the grants referred to in paragraph (5), the
 11 Secretary shall ensure strict compliance by the States and
 12 Indian tribes with the priorities set forth in section 403(a)
 13 until a certification is made under section 411(a).”.

14 (5) In subsection (g)(3)—

15 (A) in the matter preceding subparagraph
 16 (A) by striking “paragraphs (2) and” and in-
 17 serting “paragraph”;

18 (B) in subparagraph (A) by striking
 19 “401(c)(11)” and inserting “401(c)(9)”; and

20 (C) by adding at the end the following:

21 “(E) For the purpose of paragraph (8).”.

22 (6) In subsection (g)(5)—

23 (A) by inserting “(A)” before the first sen-
 24 tence;

1 (B) in the first sentence by striking “40”
 2 and inserting “60”;

3 (C) in the last sentence by striking “Funds
 4 allocated or expended by the Secretary under
 5 paragraphs (2), (3), or (4),” and inserting
 6 “Funds made available under paragraph (3) or
 7 (4)”;

8 (D) by adding at the end the following:

9 “(B) Any amount that is reallocated and available
 10 under section 411(h)(3) shall be in addition to amounts
 11 that are allocated under subparagraph (A).”.

12 (7) Subsection (g)(6) is amended to read as fol-
 13 lows:

14 “(6)(A) Any State with an approved abandoned mine
 15 reclamation program pursuant to section 405 may receive
 16 and retain, without regard to the 3-year limitation re-
 17 ferred to in paragraph (1)(D), up to 10 percent of the
 18 total of the grants made annually to such State under
 19 paragraphs (1) and (5) if such amounts are deposited into
 20 an acid mine drainage abatement and treatment fund es-
 21 tablished under State law, from which amounts (together
 22 with all interest earned on such amounts) are expended
 23 by the State for the abatement of the causes and the treat-
 24 ment of the effects of acid mine drainage in a comprehen-

1 sive manner within qualified hydrologic units affected by
 2 coal mining practices.

3 “(B) For the purposes of this paragraph, the term
 4 ‘qualified hydrologic unit’ means a hydrologic unit—

5 “(i) in which the water quality has been signifi-
 6 cantly affected by acid mine drainage from coal min-
 7 ing practices in a manner that adversely impacts bi-
 8 ological resources; and

9 “(ii) that contains lands and waters that are—

10 “(I) eligible pursuant to section 404 and
 11 include any of the priorities set forth in section
 12 403(a); and

13 “(II) the subject of expenditures by the
 14 State from the forfeiture of bonds required
 15 under section 509 or from other States sources
 16 to abate and treat acid mine drainage.”.

17 (8) Subsection (g)(7) is amended to read as fol-
 18 lows:

19 “(7) In complying with the priorities set forth in sec-
 20 tion 403(a), any State or Indian tribe may use amounts
 21 available in grants made annually to such State or tribe
 22 under paragraphs (1) and (5) for the reclamation of eligi-
 23 ble lands and waters set forth in section 403(a)(3) prior
 24 to the completion of reclamation projects under para-
 25 graphs (1) and (2) of section 403(a) only if the expendi-

1 ture of funds for such reclamation is done in conjunction
2 with the expenditure of funds for reclamation projects
3 under paragraphs (1) and (2) of section 403(a).”.

4 (9) Subsection (g)(8) is amended to read as fol-
5 lows:

6 “(8) In making the grants referred to in paragraph
7 (1)(C), the Secretary, using amounts allocated to a State
8 or Indian tribe under subparagraphs (A) or (B) of para-
9 graph (1) or as necessary amounts available to the Sec-
10 retary under paragraph (3), shall assure total grant
11 awards of not less than \$2,000,000 annually to each State
12 and each Indian tribe. Notwithstanding any other provi-
13 sion of law, this paragraph applies to the State of Ten-
14 nessee.”.

15 (10) Subsection (h) is amended to read as fol-
16 lows:

17 “(h) IN GENERAL.—(1) In the case of any fiscal year
18 beginning on or after October 1, 2004, the Secretary shall,
19 as of the beginning of such fiscal year and before any allo-
20 cation under subsection (g), make the transfers provided
21 in paragraph (2).

22 “(2) AMOUNT.—The Secretary shall transfer to the
23 United Mine Workers of America Combined Benefit Fund,
24 to the United Mine Workers of America 1992 Benefit
25 Plan, and to the multiemployer health benefit plan estab-

lished after July 20, 1992, by the parties that are the set-
 tlers of the 1992 Plan, for any fiscal year from the interest
 which the Secretary estimates will be earned and paid to
 the fund during the fiscal year an amount equal to the
 sum of—

“(A) the amount described in paragraph 3(A);

“(B) the amount described in paragraph 3(B);

plus

“(C) the amount described in paragraph 3(C).

“(3) LIMITATION.—The aggregate amount which
 may be transferred under paragraph (2) for any fiscal
 year shall not exceed—

“(A) the amount which the trustees of the
 Combined Fund estimate will be expended from the
 premium accounts maintained by such Fund for the
 fiscal year of the Combined Fund in which the
 transfer is made, less the amount which the trustees
 estimate the Combined Fund will receive during
 such fiscal year in required health benefit premiums;
 plus

“(B) the amount which the trustees of the 1992
 Plan estimate will be expended from the 1992 Plan
 during the next calendar year to provide the benefits
 required by such Plan on the date of enactment of
 this Act, less the amount which the trustees estimate

1 the 1992 Plan will receive during such calendar year
2 in required monthly per beneficiary premiums, in-
3 cluding the amount of any security provided to the
4 1992 Plan which is available for use in the provision
5 of benefits; plus

6 “(C) the amount which the trustees of the mul-
7 tiemployer health benefit plan established after July
8 20, 1992, by the parties that are the settlors of the
9 1992 Plan estimate will be expended from such plan
10 during the next calendar year, to provide benefits no
11 greater than those provided by such plan on the date
12 of enactment of this subparagraph, less the amount
13 of income which such trustees estimate such plan
14 will receive during such calendar year.

15 “(4) ADJUSTMENT.—If, for any fiscal year, the
16 amount transferred to the Combined Fund, or the 1992
17 Plan, or to the plan described in paragraph (3)(C) is more
18 or less than the amount required to be transferred, the
19 Secretary shall appropriately adjust the amount trans-
20 ferred for the next fiscal year.

21 “(5)(A) The Secretary may make a transfer under
22 subparagraphs (B) and (C) of paragraph (2) for a fiscal
23 year only if the Secretary determines, using actuarial pro-
24 jections provided by the trustees of the Combined Fund,
25 that amounts will be available under paragraph (1), after

1 such transfer, for the next fiscal year for making the
 2 transfer under paragraph (2)(A).

3 “(B) A transfer under paragraph (2)(C) shall not be
 4 made unless the entities that are obligated to contribute
 5 to the plan described in paragraph 3(C) on the date of
 6 the transfer are obligated to make such contributions at
 7 rates that are no less than those in effect on the date of
 8 enactment of this paragraph.”.

9 (c) AMENDMENTS TO SECTION 403.—Section 403 of
 10 the Surface Mining Control and Reclamation Act of 1977
 11 (30 U.S.C. 1233) is amended as follows:

12 (1) In subsection (a)—

13 (A) in paragraph (1), by striking “general
 14 welfare,”;

15 (B) in paragraph (2), by striking “health,
 16 safety, and general welfare” and inserting
 17 “health and safety”, and inserting “and” after
 18 the semicolon at the end;

19 (C) in paragraph (3), by striking the semi-
 20 colon at the end and inserting a period; and

21 (D) by striking paragraphs (4) and (5).

22 (2) In subsection (b)—

23 (A) by striking the heading and inserting
 24 “WATER SUPPLY RESTORATION.—”; and

1 (B) in paragraph (1) by striking “up to 30
2 percent of the”.

3 (3) In subsection (c), by inserting “, subject to
4 the approval of the Secretary,” after “amendments”.

5 (d) AMENDMENT TO SECTION 406.—Section 406(h)
6 of the Surface Mining Control and Reclamation Act of
7 1977 (30 U.S.C. 1236(h)) is amended by striking “Soil
8 Conservation Service” and inserting “Natural Resources
9 Conservation Service”.

10 (e) FURTHER AMENDMENT TO SECTION 406.—Sec-
11 tion 406 of the Surface Mining Control and Reclamation
12 Act of 1977 (30 U.S.C. 1236) is amended by adding at
13 the end the following:

14 “(i) There is authorized to be appropriated to the
15 Secretary of Agriculture, from amounts in the Treasury
16 other than amounts in the fund, such sums as may be
17 necessary to carry out this section.”.

18 (f) AMENDMENT TO SECTION 408.—Section 408(a)
19 of the Surface Mining Control and Reclamation Act of
20 1977 (30 U.S.C. 1238(a)), is amended by striking “who
21 owned the surface prior to May 2, 1977, and”.

22 (g) AMENDMENTS TO SECTION 411.—Section 411 of
23 the Surface Mining Control and Reclamation Act of 1977
24 (30 U.S.C. 1240a) is amended as follows:

1 (1) In subsection (a), by inserting “(1)” before
2 the first sentence, and by adding at the end the fol-
3 lowing:

4 “(2) The Secretary may, on the Secretary’s own voli-
5 tion, make the certification referred to in paragraph (1)
6 on behalf of any State or Indian tribe referred to in para-
7 graph (1) if on the basis of the inventory referred to in
8 section 403(c) all reclamation projects relating to the pri-
9 orities set forth in section 403(a) for eligible lands and
10 water pursuant to section 404 in such State or tribe have
11 been completed. The Secretary shall only make such cer-
12 tification after notice in the Federal Register and oppor-
13 tunity for public comment.”.

14 (2) By adding at the end the following:

15 “(h) STATE SHARE FOR CERTAIN CERTIFIED
16 STATES.—(1)(A) From moneys referred to in subsection
17 (a) of section 35 of the Mineral Leasing Act (30 U.S.C.
18 191(a)) that are paid into the Treasury after the date of
19 the enactment of this subsection and that are not paid
20 to States under section 35 of the Mineral Leasing Act or
21 reserved as part of the reclamation fund under such sec-
22 tion, the Secretary shall pay to each qualified State, on
23 a proportional basis, an amount equal to the sum of the
24 aggregate unappropriated amount allocated to such quali-
25 fied State under section 402(g)(1)(A).

1 “(B) In this paragraph, the term ‘qualified State’
 2 means a State for which a certification is made under sub-
 3 section (a) and in which there are public domain lands
 4 available for leasing under the Mineral Leasing Act (30
 5 U.S.C. 181 et seq.).

6 “(2) Payments to States under this subsection shall
 7 be made, without regard to any limitation in section
 8 401(d), in the same manner as if paid under section 35
 9 of the Mineral Leasing Act (30 U.S.C. 191) and concur-
 10 rently with payments to States under that section.

11 “(3) The amount allocated to any State under section
 12 402(g)(1)(A) that is paid to such State as a result of a
 13 payment under paragraph (1) of this subsection shall be
 14 reallocated and available for grants under section
 15 402(g)(5).”.

16 (h) EXTENSION OF LIMITATION ON APPLICATION OF
 17 PROHIBITION ON ISSUANCE OF PERMIT.—Section 510(e)
 18 of the Surface Mining Control and Reclamation Act of
 19 1977 (30 U.S.C. 1260(e)) is amended by striking “2004”
 20 and inserting “2019”.

21 **SEC. 3. PROVISIONS RELATING TO THE IMPLEMENTATION**
 22 **OF THIS TITLE.**

23 (a) TRANSITION RULES.—(1) Amounts allocated
 24 under section 402(g)(2) of the Surface Mining Control
 25 and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) (ex-

cluding interest) prior to the date of enactment of this Act for the program set forth under section 406 of that Act (30 U.S.C. 1236), but not appropriated prior to such date, shall be available in fiscal year 2004 and thereafter for the transfers referred to in section 402(h) of such Act (30 U.S.C. 1232(h)), as amended by this Act, in the same manner as are other amounts available for such transfers.

(2) Notwithstanding any other provision of law, interest credited to the fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) that is not transferred to the Combined Benefit Fund referred to in section 402(h) of such Act (30 U.S.C. 1232(h)), as amended by this Act, prior to the date of enactment of this Act shall be available in fiscal year 2004 and thereafter for transfer to the Combined Fund, and shall be used, notwithstanding any other provision of law, to pay the amount of any deficit in net assets in the Combined Fund.

(b) INVENTORY.—Within 1 year after the date of enactment of this Act, the Secretary of the Interior shall complete a review of all additions made, pursuant to amendments offered by States and Indian tribes after December 31, 1998, to the inventory referred to in section 403(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(c)) to ensure that such addi-

1 tions reflect eligible lands and waters pursuant to section
2 404 of such Act (30 U.S.C. 1234) that meet the priorities
3 set forth in paragraphs (1) and (2) of section 403(a) of
4 such Act (30 U.S.C. 1233(a)), and are correctly identified
5 pursuant to such priorities. Any lands or waters that were
6 included in the inventory pursuant to the general welfare
7 standard set forth in section 403(a) of such Act (30
8 U.S.C. 1233(a)) before the date of enactment of this Act
9 that are determined in the review to no longer meet the
10 criteria set forth in paragraphs (1) and (2) of section
11 403(a) of such Act, as amended by this Act, shall be re-
12 moved from the inventory.

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